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Special Investigations

**CRIMINAL INVESTIGATIONS AND
COUNTERINTELLIGENCE**

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Criminal activity and intelligence operations against the Air Force threaten national security. To secure resources and personnel, the Air Force must provide security commensurate with the importance of the assets. When Air Force personnel commit criminal offenses, illegal activity occurs on an Air Force installation, or Air Force security is breached or compromised, the Air Force must thoroughly investigate criminal allegations and intelligence threats and refer them to appropriate authorities for action. The Air Force Office of Special Investigations (AFOSI) is the only Air Force organization authorized to conduct counterintelligence activities and operations. The following policies enable the Air Force to meet these responsibilities. Laws and directives impose disciplinary action on Air Force members and civilian employees who do not comply with these policies.

SUMMARY OF REVISIONS

This revision adds the reference to 31 U.S.C. Section 1535 as a law that controls the manner and extent of military cooperation with civilian law enforcement (paragraph **2.1.**); changes the name of polygraph examinations to Psychophysiological Detection of Deception (PDD) examinations (paragraphs **4.** and **7.4.3.**); references AFI 71-101, Volume 1, as the instrument describing approval authorities for consensual and non-consensual interception of wire or oral communications (paragraph **7.2.**); includes personnel security investigations in foreign countries (paragraph **7.4.6.**); provides policy for commander directed investigations when AFOSI criminal investigations are in progress (paragraph **7.5.3.**); provides general instruction for interception of oral and wire communications by citing AFI 71-101 Volume 1 and 4, and combines Attachment 2 and 3 into one listing of related law, directives, authorities, and supporting information (**attachment 1**). A bar (|) indicates revision from the previous edition.

1. When people to whom the Air Force has an obligation or responsibility are under a clear and direct threat, the Air Force will protect them. The Air Force also protects leaders or official guests who are subject to unique and significant risks or who are particularly vulnerable because of the mission environment.

1.1. The Air Force will support the US Secret Service in executing its statutory protective responsibilities.

2. If a crime is committed by Air Force personnel or on Air Force installations, or if it is otherwise of interest to the Air Force, the Air Force will thoroughly investigate and refer it to appropriate authorities for action.

2.1. The Posse Comitatus Act, Title 18, United States Code, Section 1385, Use of Army and Air Force as Posse Comitatus, Title 10, United States Code, Sections 371 through 378, Military Cooperation With Civilian Law Enforcement Officials, and the Economy Act, Title 31, United States Code, Section 1535, control the manner and extent of military cooperation with, and participation in, civilian law enforcement activities or agencies.

3. The Air Force will conduct counterintelligence activities and counterespionage operations to detect and neutralize threats against the Air Force as authorized by Executive Order 12333 and other directives.

4. The Air Force may use technical services (video surveillance and interception of oral and wire communications), Psychophysiological Detection of Deception (PDD) Examinations (formerly known as polygraph examinations), and hypnosis to support criminal investigations, counterintelligence, and security matters.

5. Special agents accredited by the Air Force to perform investigations and with proper credentials may:

5.1. Enter any Air Force installation or off limits area unless Air Force security regulations state otherwise.

5.2. Access all Air Force records, property and people, except as limited by security regulations.

5.3. Carry concealed or unconcealed US Government-issued firearms for which they are trained and qualified.

5.4. Use all lawful and approved investigative procedures.

5.5. Wear civilian clothing while investigating.

6. Within limits set by the Congress, the Air Force will fund emergency and extraordinary expenses to get information or fulfill other requirements for counterintelligence and investigations. Annually, the Air Force Audit Agency will audit these contingency funds.

7. The following responsibilities and authorities are established:

7.1. Only the Secretary of the Air Force (SECAF) through the Air Force Inspector General (SAF/IG) may direct the AFOSI to delay, suspend, or terminate an investigation (Department of Defense DoD Instruction 5505.3) unless the investigation is conducted at the request of the DOD Inspector General (DOD/IG). In that case, DOD/IG may direct AFOSI to delay, suspend, or terminate an investigation.

7.1.1. Commanders objecting to an AFOSI investigation will report circumstances via chain of command to SECAF for resolution. Facts in all cases and SECAF's decision will be reported to DOD/IG.

7.2. Requests for interceptions of wire or oral communications for law enforcement and counterintelligence investigations shall be processed in accordance with the appropriate guidance.

7.2.1. Law Enforcement interceptions will be processed in accordance with AFI 71-101, Volume 1, or any succeeding or superseding authority implementing DODD 5505.9, (*Interception Of Wire*,

Electronic, And Oral Communications For Law Enforcement), and submitted to the appropriate approval authority therein.

7.2.2. Counterintelligence interceptions will be processed in accordance with AFI 71-101, Volume 4, or any succeeding or superseding authority implementing DoD 5240.1R (*Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons*), and submitted to the appropriate approval authority therein.

7.3. The Judge Advocate General of the Air Force chooses military judges to receive applications for intercept authorization orders and decides whether to issue them. These judges are certified according to Article 26(b) of the Uniform Code of Military Justice (UCMJ), Title 10, United States Code, Section 826(b). Military judges may issue these orders only for interceptions that occur abroad and that are targeted against persons subject to the UCMJ.

7.4. The Commander, AFOSI:

7.4.1. Conducts criminal investigations, including violations of the UCMJ or other US laws and statutes. The Commander of AFOSI also conducts drug investigations on persons not subject to the UCMJ after the appropriate prosecutor concurs and the servicing staff judge advocate (SJA) does a legal review. This review determines such investigations are consistent with law and applicable directives.

7.4.2. Assesses threats and develops programs to counter them, provides protection, allocates resources, develops awareness briefings, and establishes classification guidelines for counterintelligence information.

7.4.3. Establishes controls and rules for technical surveillance, PDD examinations, and forensic hypnosis.

7.4.4. Accredits special agents and issues them badges and credentials.

7.4.5. When delegated, manages the C-funds program and is accountable for spending.

7.4.6. Conducts personnel security investigations in foreign countries for the Defense Security Service. (AFI 31-501)

7.5. Air Force commanders:

7.5.1. Refer to AFOSI all criminal matters and offenses for which AFOSI is responsible.

7.5.2. Ensure their personnel receive required Counterintelligence Awareness Briefings and report required counterintelligence information.

7.5.3. Do not reassign, order or permit any type of investigation, or take any other official action against someone undergoing an AFOSI investigation before coordinating with AFOSI and the servicing SJA.

7.5.4. Grant access to AFOSI reports only to people who need the information for their official duties.

7.5.5. Establish procedures at installations for handling personnel, medical, and other administrative records of special agents to prevent unauthorized disclosure of their rank.

7.5.6. Commanders cannot authorize interception of wire, electronic, or oral communications. For the purposes of this Air Force Policy Directive, interception means the targeting of specific individuals for an investigative purpose.

8. See [attachment 1](#) for a glossary of references and supporting information.

F. WHITTEN PETERS
Acting Secretary of the Air Force

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Public Law 99-145, Section 1223.

Uniform Code of Military Justice, Article 26(b), Military Judge of a General or Special Court Martial, 1984

Title 10, United States Code, Sections 371-378, Military Cooperation with Civilian Law Enforcement Officials.

Title 18, United States Code, Section 1385, Use of Army and Air Force as Posse Comitatus.

Title 44, United States Code, Section 3101, Records Management by Agency Heads, General Duty, October 22, 1968

Executive Order 12333, US Intelligence Activity, December 4, 1991

Presidential Decision Directive, National Security Council-12, Security Awareness and Reporting of Foreign Contacts, August 5, 1993

DoD Directive 2000.12, DoD Combating Terrorism Program, September 15, 1996.

DoD Directive 3025.15, Military Assistance to Civil Authorities, February 18, 1997.

DoD Directive 5105.42, Defense Investigative Service, June 14, 1985

DoD Directive 5210.48, DoD Polygraph Program, December 24, 1984

DoD 5240.1R Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons

DoD Directive 5240.2, DoD Counterintelligence, June 6, 1983

DoD Instruction 5240.6, Counterintelligence Awareness and Briefing Program, July 16, 1996

DoD Instruction 5505.3, Initiation of Investigation by Military Criminal Investigative Organizations, July 11, 1986

DoD O-5505.9-M, Procedures for Wire, Electronic, and Oral Interceptions for Law Enforcement, May 1995

DoD Directive 5505.9, Interception of Wire, Electronic, and Oral Communication for Law Enforcement, April 20, 1995

DoD Directive 5525.5, DoD Cooperation with Civilian Law Enforcement Officials, January 15, 1986.

DoD Directive 5525.7, Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes, January 22, 1985

DoD Instruction 5030.34, Agreement Between the United States Secret Service and the Department of Defense Concerning Protection of the President and Other Officials, September 17, 1986

DoD Instruction 5240.5, DoD Technical Surveillance Countermeasures (TSCM) Survey Program, May 23, 1984

DoD Instruction 5505.2, Criminal Investigations of Fraud Offenses, July 16, 1990. *NOTE:* Enclosure 2 of this instruction has been replaced by interim guidance published in an October 23, 1996, Memorandum from the Inspector General, Department of Defense, to the Secretaries of the Military Departments entitled Jurisdiction for Fraud Offenses.

Air Force Mission Directive (AFMD) 39, Air Force Office of Special Investigations

Air Force Instruction (AFI) 71-101, Volume 1, Criminal Investigations

AFI 71-101, Volume 2, Protective Service Matters

AFI 71-101, Volume 3, The Air Force Technical Surveillance Countermeasures Program

AFI 71-101, Volume 4, Counterintelligence

Abbreviations and Acronyms

AFOSI—Air Force Office of Special Investigations

DOD/IG—Department of Defense Inspector General

PPD—Forensic Psychophysiological Detection of Deception Examinations (formerly known as Polygraph Examinations)

SAF/IG—Department of the Air Force Inspector General

SECAF—Secretary of the Air Force

UCMJ—Uniform Code of Military Justice

Terms

Technical Services—The investigative use of video surveillance and interception of oral, electronic and wire communications.